IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 96 of 2006

Decided on : July 14, 2006

Rakesh Sharma **…..Petitioner.**

VERSUS

State of Himachal Pradesh **…..Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : **Mr. R.K. Bawa, Senior Advocate, with Mr. R.P. Thakur, Advocate.**

For the Respondent : **Mr. Ashok Chaudhary, Additional Advocate General.**

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. There had been an agreement between the revision petitioner and the respondent – State of Himachal Pradesh, pursuant to which rates of some stationery articles were fixed and it was agreed that the revision petitioner would be supplying such stationery articles at the rates, so fixed, as and when order was placed. There was a clause in the agreement that the revision petitioner would not be supplying such stationery articles to any department of the Government directly. The case of the revision petitioner is that though he was bound, as per the agreement, not to supply the stationery articles to any department of the Government directly, the respondent had been placing the orders with other suppliers for

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[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?***

supply of those very stationery articles, the rate contract for which was entered into between the revision petitioner and that this caused loss to him to the tune of Rs.1,22,348/-. He approached the Court for appointment of an Arbitrator, in terms of the agreement. Principal Secretary of Printing and Stationery Department was appointed as Arbitrator by the Sub Judge. The Arbitrator gave his award. The revision petitioner was dissatisfied with that award and so he filed objections alleging that the Arbitrator has misconducted himself and the proceedings. Respondent opposed the objections. Evidence was recorded by the Sub Judge and ultimately the objections were dismissed and the award was made Rule of the Court. Appeal filed by the revision petitioner in the Court of District Judge stands dismissed. Now, this revision petition has been filed.

3. Learned Senior Counsel, appearing for the revision petitioner, states that the Arbitrator was the Principal Secretary of the Department of Printing and Stationery, the Controller of which Department had made the agreement with the revision petitioner and against whom the arbitration reference was sought and thus the Arbitrator had departmental bias. Admittedly, the Arbitrator was appointed on the request of the revision petitioner and the order was passed in his presence. He should have objected to the appointment of the Arbitrator at the time when the order was passed. It is too late for the revision petitioner to raise this objection.

4. Learned Senior Counsel, representing the revision petitioner, then urged that when there was a clause in the agreement that the revision petitioner would not be supplying stationery articles

of the type, the rates of which were agreed between the parties, without taking the respondent into confidence, the respondent should have also not procured such stationery articles from other sources. It is alleged that the respondent procured such articles from other sources, which caused loss of Rs.1,22,000/- and odds to the revision petitioner. No doubt, there was a clause in the agreement that the revision petitioner would not be making supplies to the Government Offices, Corporations or Autonomous Bodies, within the State of Himachal Pradesh, during the period of contract if the order was placed by such Office, Corporation, Autonomous Body etc. and that such supplies were to be made only if authorized by the Controller of Printing and Stationery Department, but there was no corresponding obligation on the respondent to procure all the supplies from the revision petitioner.

5. As a matter of fact, a reading of the aforesaid clause in the agreement shows that there was no complete bar on the supply of the stationery articles to Government Offices, Corporations, Autonomous Bodies, etc., but such supplies could have been made only on being authorized by the Controller of Printing and Stationery. It is not the case of the revision petitioner that any orders were placed with him by any Government Office, Corporation or Autonomous Body and he sought authorization from the Controller of Printing and Stationery and the said Controller did not authorize the supply.

6. For the foregoing reasons, I find no merit in the revision petition. The same is, therefore, dismissed.

(Surjit Singh)
Judge.

July 14, 2006(sd)